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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

KIN/173109

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 25, 2016, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Professional Services Group - PSG in regard to Kinship Care, a hearing was held on April 20, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner's application for kinship care benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

█  
█

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, Wisconsin 53703

By: [REDACTED], Kinship Care Worker  
Bureau of Milwaukee Child Welfare  
1555 Rivercenter Drive  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Milwaukee County.
2. On February 24, 2016 the petitioner applied for kinship care benefits. The petitioner was caring for her grandchild, and believed that she was eligible for kinship benefits.

3. On March 2, 2016 the agency conducted a home visit to the petitioner's home. The petitioner reported that the child's mother, her daughter, did not have AODA issues, child protective services involvement, or a criminal record. The mother was employed at [REDACTED]. The petitioner further reported that the mother had plans to move to Texas with a church group, and not to bring her child with her to Texas.
4. The agency did not contact the child's father.
5. On March 17, 2016 the agency sent the petitioner a letter denying her application for kinship care benefits.
6. On March 25, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

### **DISCUSSION**

The Kinship Care benefit is a public assistance payment of \$232 per month per child paid to a qualified relative who bears no legal responsibility to support the child. Wis. Adm. Code, §§58.03(12). To be eligible for the payments thereunder, the relative must meet all of the conditions set forth in Wis. Stat. §§48.57(3m)(am)(1-5) or 48.57(3n)(am)(1-6). These requirements are also listed under Wis. Adm. Code DCF, §§58.04

When assessing a person's Kinship Care application, the agency first determines whether there is a need for the child or children to be placed with the kinship care relative, and that the placement with the kinship care relative is in the best interests of the child. Wis. Stat. §§48.57(3m)(am)(1m). Next the agency determines whether the child or children meet one or more of the criteria specified in s. 48.13 or 938.13. Wis. Stat. §§48.57(3m)(am)(2). Wis. Stat. §48.13 is the jurisdictional statute for children in need of protection and services. Finally, the agency conducts a background check. Wis. Stat. §§48.57(3m)(am)(4). If the applicant or another adult in the home has any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child, the agency may deny the application. *Id.*

In this case the agency denied the petitioner's application for kinship care benefits because the child does not meet one or more of the criteria under s. 48.13 or 938.13. Wis. Stat. §48.13 is the jurisdictional statute for finding that a child is in need of protection and services. The agency concluded that this child is not in need of protection and services, and the mother is fit to provide care to the child. Thus, this is a voluntary family arrangement, and the petitioner is not eligible for kinship care benefits.

I have considered whether this mother has abandoned the child under Wis. Stat. §48.13(2), and I find that the mother has not abandoned this child. The petitioner testified that the mother plans to move to Texas. This has not yet happened as of the date of hearing. I further note that this abandonment had not been reported to the authorities. The petitioner stated that she would not report this to the authorities because it is her daughter, who she also wants to protect. Without this issue being reported to Child Protective Services (CPS), and CPS finding that the child's mother has abandoned the child, or another CHIPS ground, I must conclude that the agency's denial was correct. If this situation changes, and the petitioner is able to demonstrate that this child is in need of protective and services, then she may always reapply for kinship care benefits.

### **CONCLUSIONS OF LAW**

The agency correctly denied the petitioner's application for kinship care benefits.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 4th day of May, 2016

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 4, 2016.

Professional Services Group - PSG

DCF - Kinship Care

DCF - Kinship Care